

BEFORE THE INDIANA STATE BOARD OF EDUCATION

CAUSE NO. 9209031

In the Matter of A.S., Jr.,

Petitioner

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) ORDERS

FINDINGS OF FACT,
CONCLUSIONS OF LAW,
AND

Statement of the Case

On August 3, 1992, A.S., Jr., was indicted for murder in Newton County, Indiana. Since shortly after that date, and continuing to the present time, he has been incarcerated in the Newton County Jail, Kentland, Indiana. His jury trial is set to commence April 26, 1993. The Newton County Jail is located within the South Newton School Corporation.

On September 24, 1992, A.S., Jr., by counsel, petitioned the State Board of Education for a hearing to determine his status with respect to his legal settlement and his right to an education as a pretrial detainee, among other things. A.S., Jr., also requested a preliminary order that he be provided education services pending a final determination of these issues.

A.S., Jr.'s request for a preliminary order was interpreted by the Hearing Examiner as a request for a prehearing conference and prehearing order. A prehearing conference was held with the parties by telephone on September 28, 1992. As a result of that conference, a prehearing order was issued that South Newton School Corporation provide education services to A.S., Jr., while he is incarcerated awaiting trial, pending the final determination of the parties' rights, obligations, and financial responsibilities in this cause.

On September 29, 1992, the State Attendance Officer, by counsel, filed a motion to intervene as a party. The motion was granted.

Following several attempts to find a hearing date that could accommodate the schedules of all the parties and the Hearing Examiner, it was determined that the parties would stipulate facts and argue the case by submitting briefs. On October 9, 1992, the parties were ordered to stipulate whatever facts could be agreed upon. That stipulation was received October 27, 1992, and was accepted and entered in the record on November 10, 1992. The parties were given until December 11, 1992, to submit briefs on their arguments.

After consideration of the briefs filed by the parties, the Hearing Examiner issues the following findings of fact, conclusions of law, and orders.

Issues

Whether petitioner is entitled to educational services as a pre-trial detainee.

What party, if any, has a duty to provide educational services to petitioner.

What party, if any, is obligated to pay the costs of educational services provided to petitioner.